

APPROVED

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COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

IN LEGISLATIVE SESSION

Thurs., August 13, 1987 Rockville, Md.

The County Council for Montgomery County, Maryland, convened in Legislative Session in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland, at 2:09 P.M. on Thursday, August 13, 1987.

PRESENT

Rose Crenca, President Neal Potter
Michael L. Gudis, President Pro Tem William E. Hanna, Jr.
Bruce Adams

ABSENT

Michael L. Subin, Vice President Isiah Leggett

The President in the Chair.

President Crenca announced that there was an executive session scheduled immediately following this legislative session and that the subject was land acquisition.

INTRODUCTION OF BILLS

SUBJECT: Emergency Bill No. 42-87. Transfer of Operational Firefighters from Corporations to the Department of Fire and Rescue Services (DFRS)

Introduced Bill No. 42-87.

President Crenca noted that this was an emergency bill and that it was necessary to schedule the bill for hearing as soon as possible. Mr. Spengler, Council Staff Director, said that the public hearing is tentatively scheduled for Wednesday evening, September 16, and that the Council worksession is scheduled for September 21 at 9:30 A.M.

Mr. Kramer, County Executive, apologized to the Councilmembers for asking them to interrupt their vacations to introduce the bill. He said he had planned to address the bill through the normal legislative process at the same time the other recommendations of the Red Ribbon Committee are

addressed. He noted, however, that the U. S. District Court has issued a ruling which made it necessary to address the employment status of the firefighters and rescuers on an emergency basis. The ruling requires that the career firefighters in the independent fire corporations be paid overtime for any hours worked in excess of 40 hours a week. If the firefighters were County merit system employees, they would not be eligible for overtime until they had worked 53 hours a week. He said that he has met with management personnel of the fire corporations and has asked their cooperation in arranging work schedules to minimize the impact of the overtime pending Council action. He has asked that public safety not be jeopardized and has assured them that he will seek a supplemental appropriation from the Council to fund the overtime payments until the issue is resolved. He said he has also asked Mr. Granados, Director, DFRS, to begin the process to hire a volunteer coordinator to promote volunteerism. He said he believes improvements can be made in the volunteer program and he would like to move in that direction.

Mr. Kramer said that he is asking two things of the Council:

- (1) that this bill be considered at the Council's earliest convenience; and
- (2) that the Council positively consider the proposal.

Councilmember Gudis said that he would like information available at the public hearing concerning the cost to the County if the firefighters and rescuers remain employees of the independent fire corporations and the cost if they become County merit system employees. He said he has been informed that individuals who are career employees will no longer be permitted to volunteer at other fire corporations if they are County employees.

Mr. Sorrell, Deputy County Attorney, explained the Federal Fair Labor Standards Act (FLSA) concerning overtime and the court ruling. He said there is a section of the statute concerning volunteer service which prohibits coercive activities or conspiracies between employers in an attempt to circumvent the overtime provisions. He said that in his opinion there is a greater risk of violating the intent of the law under the present system than there would be if the bill is passed. He said if the bill is enacted the County intends to remain neutral with respect to volunteer service to corporations other than the one to which the firefighters are assigned. Mr. Kramer assured the Council that he intends to do everything he can to assure that the firefighters are permitted to continue their volunteer service.

Councilmember Hanna said he cannot support the bill. He said he fears the court ruling is being used improperly to bring firefighters and rescuers under the County control. He said he does not believe the union will permit the firefighters to volunteer with other corporations and that bringing the firefighters into the County personnel system will discourage volunteerism and eventually be the demise of volunteer service. He said he believes there is room for improvement in the fire service and that these improvements can be made under the present system. He said he will do all he can to preserve the volunteer system.

Councilmember Potter said that he shares some of the concerns expressed by Councilmember Hanna, and he hopes that these concerns will be addressed at the public hearing. In response to his questions concerning the source of funds to pay the overtime, Mr. Kendal, Director, Office of Management and Budget, said that there are funds available in the fire district accounts that can be used to fund the supplemental appropriations. He said that, if the Council decides not to enact the bill, the County would advance the funds to the fire districts from the General Fund and repay the General Fund by levying a higher tax the following year.

Councilmember Adams said that he visited the Wheaton Rescue Squad Friday evening to talk to the rescuers about the bill and the issue of volunteer service. He said he spoke with Mr. Conway, President of the Career Firefighters Association, concerning the union's position on the volunteer service. He said he was assured that the union will take a position similar to the County and not prohibit the firefighters from volunteering at other departments. Councilmember Adams said he thinks it is important that the firefighters be treated in the same way the County treats other County employees.

In response to President Crenca's inquiry, Mr. Sorrell explained the provision of the bill which would not permit funds to be expended or distributed for payment of personnel costs for personnel employed by the independent corporations in the firefighter/rescuer occupational series after ninety days from the effective date of this law, if it is enacted by the Council. He said that, after the ninety-day period, the corporations will not be permitted to pay these employees with tax funds. He noted that the corporations will continue to have other employees paid by the corporations, such as clerical employees, and that this bill only applies to the operational firefighters and rescuers.

Mr. Kramer asked the Councilmembers to advise his staff of any questions that may be brought to their attention prior to the public hearing so that answers can be available at that time. He advised the Council that it will be more costly to the taxpayers if the firefighter/rescuer series is not brought under the County merit system.

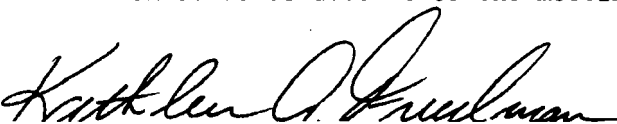
(The Council recessed at 2:45 P.M. and reconvened at 2:47 P.M.)

SUBJECT: Executive Session

The County Council convened in executive session on a land acquisition matter at 2:47 P.M.

The meeting adjourned at 3:20 P.M.

This is an accurate account of the meeting:


Kathleen A. Freedman, Secretary
County Council